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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 09/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,949

Applicant(s)

KOGURE ET AL.

Examiner

Marc A Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5, 8, 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 – 8 and 12 – 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrases ‘expansion – molded’ and ‘fusion bonded’ are indefinite, as their meanings are unclear. For purposes of examination, the phrases will be assumed to mean ‘blow molded’ and ‘mutually welded,’ respectively. The phrase ‘in such manner’ is also indefinite, as its meaning is unclear. The phrases ‘obtained by measurement to a polypropylene resin forming the foamed layer’ and ‘obtained by measurement to a polypropylene resin forming the resin layer,’ are also unclear, as their meanings are unclear. The meanings of Relationships (1) and (2) in Claims 1 and 2 are therefore also unclear. The phrase ‘melt flow rate’ in line 19 is indefinite because it is not clear if the phrase means the melt flow rate ‘obtained by measurement to a polypropylene resin forming the foamed layer’ (line 12) or ‘obtained by measurement to a polypropylene resin forming the resin layer’ (line 17).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 1 – 2, 4 – 8 and 14 – 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara et al (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223).

With regard to Claims 1 – 2 and 14 – 15, Sugawara et al disclose a multi – layer blow molded article of a polypropylene resin (an instrument panel for an automobile; column 6, lines 10 – 24) which is obtained by molding a multilayer parison comprising three layers; two resin layers, and an intermediate foamed layer (the article therefore has polymer layers situated on both inner and outer sides; column 6, lines 12 – 17); the parison is held in a mold (clamped between the two dies of a mold; column 3, lines 19 – 28); part of the inner – side polymer layer of the parison is welded to itself (the parison is pressed and mutually welded; column 8, lines 36 – 44). Sugawara et al fail to disclose a polypropylene having a melt flow rate of at least 0.3 grams /10 minutes.

Sasaki et al teach the use of a polypropylene having a melt flow rate of greater than 0/3 grams / 10 minutes (column 3, lines 48 – 55) for the purpose of using a film having high moldability for making molded articles (column 1, lines 10 – 19).

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a melt flow rate of at least 0.3 grams /10 minutes in Sugawara et al in order to use a film having high moldability for making molded articles as taught by Sasaki et al.

With regard to Claims 4 – 8, Sugawara et al. fail to disclose an article in which the welded portion comprises 25 % of the inner layer, and 60% of the inner layer, and 95% of the area of the inner layer, and a parison which comprises a third resin layer.

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However, Sugawara et al. teach a welded portion which comprises 1% of the inner layer (part of the parison is mutually welded; column 8, lines 33 – 44), and a parison which comprises two resin layers as discussed above. Therefore, the percent of the inner layer contained in the welded portion and the number of resin layers would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end use of the product. Therefore, it would be obvious for one of ordinary skill in the art to vary the percent of the inner layer contained in the welded portion, and the number of resin layers, since the percent of the inner layer contained in the welded portion and the number of resin layers would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Sugawara et al. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

5. Claims 3 and 12 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara et al. (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223) and further in view of Nishibori et al (U.S. Patent No. 5,801,205).

Sugawara et al and Sasaki et al disclose an instrument panel for an automobile as discussed above. With regard to Claims 3 and 12 – 13, the thickness of the resin layer is 1 – 10 mm (column 6, lines 28 – 29 and 58 – 59) the instrument panel also constitutes a shock – absorber and container, for instruments. Sugawara et al fail to disclose a foamed layer having a density of 25 to 400 kg/m³.

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Nishibori et al disclose a density of 25 kg/m^3 for a foamed layer for the interior of an automobile (column 2, lines 31 – 48) for the purpose of forming a foam which is light – weight and durable (column 1, lines 50 – 59).

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a density of 25 to 400 kg/m^3 in Nishibori et al in order to form a foam which is light – weight and durable as taught by Nishibori et al.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

9/23/02